

REMARKS

Claims 1-42 are pending in the application. Claims 3, 14, 20, 31 and 37 have been amended. These amendments are fully supported by the disclosure of the application: no new matter has been added by the amendments. The Commissioner is hereby authorized and requested to charge the required fee and/or credit the refund owed to our Deposit Account No. 502769.

Reconsideration and further examination is respectfully requested.

Claim Objections

Applicants note that the Office has withdrawn the previous objection to claims 15-42, on the basis that these claims were renumbered to correct a numbering error noted in the original claims.

Patentability Under 35 USC § 103

Applicants note that the Office has withdrawn the previous rejections of claims 1-16 under 35 USC § 103(a) over Wenig (USPN 4,724,231), Grychowski et al. (USPN 6,745,760), Slot et al. (Gastroenterology 113:430-433, 1997), Garcia-Arieta et al. (Biol. Pharm. Bull. 24:1411-1416, 2001), and Harris et al. (J. Pharm. Sci. 77:405-408, 1988).

Applicants also note that the Office has withdrawn the previous rejections of claims 20-42 under 35 USC § 103(a) Wenig (USPN 4,724,231), Grychowski et al. (USPN 6,745,760), Slot et al. (Gastroenterology 113:430-433, 1997), Garcia-Arieta et al. (Biol. Pharm. Bull. 24:1411-1416, 2001), and Harris et al. (J. Pharm. Sci. 77:405-408, 1988).

Allowed Subject Matter

The Office has fully considered and allowed the subject matter of claims 1 and 2 (Office Action at p. 4).

Patentability Under 35 USC § 112

The only remaining issue in this application is the rejection of claims 3, 14, 20, 31 and 37 as allegedly unpatentable under 35 USC § 112, first paragraph. The Office maintains that the disclosure fails to enable a solution of cyanocobalamin yielding a bioavailability, when administered nasally, “of at least about 7% relative to an intramuscular injection of cyanocobalamin.”

Applicants do not accede to the merits of this rejection, and maintain that the evidence and remarks previously presented in the record, incorporated herein, fully establish enablement of this subject matter (*i.e.*, that the disclosure adequately teaches how to make, identify, and use a cyanocobalamin solution yielding at least about 7% bioavailability relative to an intramuscular injection of cyanocobalamin, without undue experimentation).

The instant rejection, however, is rendered moot by the amendments herein, which delete the allegedly non-enabled subject matter from each of the independent, rejected claims 3, 14, 20, 31 and 37. Applicants present these amendments without prejudice, to advance certain aspects of the invention to allowance.

In view of the Office's allowance of independent claim 1, which recites common patentable subject matter as presented in independent claims 3, 14, 14, 20, 31, and 37, and in light of the amendments to claims 3, 14, 14, 20, 31, and 37 herein, obviating the foregoing enablement rejection, all pending claims are therefore allowable. Issuance of a formal Notice of Allowance at an early date is thus earnestly solicited.

Respectfully Submitted,
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